

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 15-42460

Chapter 7 Case

Paul Hansmeier,

Debtor.

**NOTICE OF HEARING AND MOTION FOR ORDER
COMPELLING BARBARA MAY
TO TURN OVER ESTATE PROPERTY**

1. Randall L. Seaver, the Chapter 7 trustee herein, moves the court for the relief request below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion at 9:30 a.m. on March 23, 2016. The hearing will be held in Courtroom 8W, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and served by delivery not later than March 18, 2016 which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion under 28 U.S.C. § 157 and § 1334 and Bankruptcy Rule 5005. This motion is filed under Local Rule 9013-2, this proceeding arises under 11 U.S.C. §§ 541 and 542(a) and Local Rule 6072-1.

5. The petition commencing the Chapter 13 case was filed on July 13, 2015. The case was converted to one under Chapter 7 on December 3, 2015. The case is now pending in this court.

6. At the time this case was converted to a Chapter 7, the Chapter 13 trustee was holding \$10,169.81 in funds paid to fund a plan which was never confirmed. The debtor, through his attorney, Barbara May, asserted that the funds were derived from post-petition

earnings and so had to be returned to the debtor. The Chapter 7 trustee did not have information sufficient to determine the source of the funds. An order was entered by this court, pursuant to a stipulation, whereby the funds were paid over to Barbara May to hold pending further court order. A copy of that order is attached as Exhibit 1.

7. The debtor's schedules, signed under penalty of perjury, stated that he had \$72,000 in accounts receivable at the time the Chapter 13 case was commenced. A copy of the debtor's Schedule B is attached hereto as Exhibit 2.

8. The trustee has discovered that during the course of the Chapter 13, the debtor spent in excess of \$72,000 in accounts receivables. A copy of a page of his §341 testimony confirming that is attached as Exhibit 3.

9. On February 16, 2016, the debtor signed an affidavit representing to the Eighth Circuit BAP stating that "the accounts receivables were used to run my law practice and to fund my Chapter 13 plan." A copy of that affidavit is attached hereto as Exhibit 4.

10. The Debtor confirmed that the pre-petition accounts receivables were used to fund his Chapter 13 payments at his continued 341 meeting of creditors:

Q(Kreuziger): So you also testified that some of the funds that were collected that are attributed to these accounts receivable were used to make Chapter 13 plan payments, correct?

A(Debtor): The were – They were paid as post-petition wages to me and then I used my post-petition wages to make Chapter 13 payments.

See Exhibit 5 at 38-39.

11. A true and correct copy the transcript of the debtor's February 25, 2016 continued meeting of creditors is attached as Exhibit 5.

12. The Trustee believes that the Debtor's assertion that the accounts receivable are no longer property of the estate when converted post-petition is incorrect. Although distributed post-petition, payments on these account receivables were pre-petition assets.

13. The monies held by Barbara May, are directly traceable to assets of the Debtor's Chapter 13 bankruptcy estate, and upon conversion remain property of the Chapter 7 bankruptcy estate and must be turned over to the trustee.

14. After receipt of the February 16, 2016 affidavit signed by the debtor, the trustee demanded that the funds be paid over to him. However, Barbara May and the debtor have refused to turn over the estate property, prompting the Trustee's motion.

WHEREFORE, the trustee requests an order from the court requiring Barbara May to turn over to the trustee, immediately upon entry of the order on this motion, the sum of \$10,169.81, currently in the possession of Barbara May pursuant to this court's order of December 29, 2015.

FULLER, SEAVER, SWANSON & KELSCH, P.A.

Dated: March 4, 2016

By: /e/ Matthew D. Swanson
Matthew D. Swanson 390271
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888
Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, trustee for the Bankruptcy Estate of Paul Hansmeier named in the foregoing notice of hearing and motion for turnover of property declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on March 4, 2016

/e/ Randall L. Seaver
Randall L. Seaver, Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 15-42460

Paul Hansmeier,

ORDER

Debtor.

The Chapter 7 Trustee, Randall Seaver and counsel for the Debtor filed a stipulation concerning the disposition of funds the debtor paid into the Chapter 13 office during the pendency of his case. Pursuant to the stipulation of the parties,

It is Ordered:

1. The Chapter 13 Trustee shall disburse the funds paid into his office by the debtor, during the pendency of the Chapter 13 case, to the Debtor's counsel Barbara May.
2. Barbara May shall hold the funds until the parties have resolved their dispute via settlement or stipulated agreement, or by entry of an Order by this Court concerning the appropriate disposition of the assets.

Dated: *December 29, 2015*

/s/ Kathleen H. Sanberg

Kathleen H. Sanberg
United States Bankruptcy Judge

NOTICE OF ELECTRONIC ENTRY AND
FILING ORDER OR JUDGMENT
Filed and Docket Entry made on 12/29/2015
Lori Vosejpka, Clerk, by LH

In re **PAUL HANSMEIER**Case No. _____
(if known)**SCHEDULE B - PERSONAL PROPERTY**

Type of Property	None	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, Without Deducting any Secured Claim or Exemption
1. Cash on hand.	X			
2. Checking, savings or other financial accounts, certificates of deposit or shares in banks, savings and loan, thrift, building and loan, and home-stead associations, or credit unions, brokerage houses, or cooperatives.		CHECKING ACCOUNT AT STONEBRIDGE	-	\$100.00
		CHECKING ACCOUNT AT ASSOCIATED BANK	J	\$20.00
		CAPITAL ONE	-	\$2,400.00
		BUSINESS ACCOUNT AT ASSOCIATES BANK, HELD IN NAME OF CLASS JUSTICE LLC, 6773	-	\$19,400.00
		IOLTA ACCOUNT, NOT PART OF ESTATE, DOES NOT CONTAIN DEBTOR'S FUNDS, FOR DISCLOSURE PURPOSES ONLY HAS \$1400.00 BALANCE	-	\$0.00
		ONE HALF INTEREST IN SUPERCEDEAS BOND POSTED WITH APPELLATE COURT IN INGENUITY 13, LLC V. JOHN DOE, CASE #2:12-CV-08333-ODW-JC MATTER. DEBTOR CONTRIBUTED \$118791 AND HIS CODEBTOR CONTRIBUTED THE REST OF A \$237583.66 SUPERCEDEAS BOND. UNDERLYING AMOUNT ON APPEAL IS \$81319.79	-	\$118,791.00
		SELF SETTLED TRUST MONYET	J	\$8,554.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video and computer equipment.		NORMAL HOUSEHOLD GOODS, DEBTOR OWNS ONE HALF	-	\$4,000.00

EXHIBIT 2

In re **PAUL HANSMEIER**Case No. _____
(if known)**SCHEDULE B - PERSONAL PROPERTY**

Continuation Sheet No. 1

Type of Property	None	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, Without Deducting any Secured Claim or Exemption
5. Books; pictures and other art objects; antiques; stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.		NORMAL WEARING APPAREL	-	\$1,500.00
7. Furs and jewelry.		WATCH	-	\$0.00
		WEDDING BAND	-	\$200.00
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		TERM LIFE INSURANCE THROUGH STATE FARM	J	\$0.00
10. Annuities. Itemize and name each issuer.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			

In re **PAUL HANSMEIER**Case No. _____
(if known)**SCHEDULE B - PERSONAL PROPERTY**

Continuation Sheet No. 2

Type of Property	None	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, Without Deducting any Secured Claim or Exemption
13. Stock and interests in incorporated and unincorporated businesses. Itemize.		100% OWNERSHIP CLASS JUSTICE, PLLC, ALL ASSETS OF BUSINESS HAVE BEEN LISTED SEPARATELY	-	\$0.00
		ACCOUNTS RECEIVABLE (AMOUNT IS ESTIMATED, AND VARIES WITH WHETHER IS EACH A/R IS ACTUALLY COLLECTIBLE)	-	\$72,000.00
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and non-negotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			

In re **PAUL HANSMEIER**Case No. _____
(if known)**SCHEDULE B - PERSONAL PROPERTY**

Continuation Sheet No. 3

Type of Property	None	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, Without Deducting any Secured Claim or Exemption
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.	X			
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.		DEBTOR'S OFFICE EQUIPMENT IS ALL LEASED WITH THE EXCEPTION OF 4 COMPUTERS, EACH 3 YEARS OLD ALSO, MISCELLANEOUS PAPER, SUPPLIES, STAPLER, ENVELOPES	-	\$2,000.00

In re **PAUL HANSMEIER**Case No. _____
(if known)**SCHEDULE B - PERSONAL PROPERTY**

Continuation Sheet No. 4

Type of Property	None	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, Without Deducting any Secured Claim or Exemption
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			
Total >				\$228,965.00

4 continuation sheets attached
(Include amounts from any continuation sheets attached. Report total also on Summary of Schedules.)

In Re: Paul Hansmeier, Debtor

341 Meeting of Creditors - Paul Hansmeier
January 21, 2016

Page 17	Page 19
<p>1 Q. The accounts receivable, who are the people or 2 entities that are included in this accounts 3 receivable? 4 A. It's a Minnesota nonprofit corporation called 5 Disability Support Alliance. 6 Q. It's that one? 7 A. Yes. 8 Q. That is the only account receivable there is? 9 A. That's correct. 10 Q. Okay. And why does that exist? I mean, why did 11 they owe you money? 12 A. They owed me money because I performed legal 13 services on their behalf. 14 Q. So why is it so hard to get me the information on 15 one account receivable? 16 A. Because at first I understood the account receivable 17 term to mean something different than I think what 18 it actually means. When I had talked about it and 19 went through it and thought through it, what we 20 realized is that an account receivable is simply 21 someone who owes you money and it was really quite 22 simple. I had a single client that I was 23 representing in the course of this business and we 24 now have determined that. 25 Q. Is that who you meant when you originally said it</p>	<p>1 Financial Affairs. 2 A. I'm turning to it right now. 3 Q. Do you have that front of you? 4 A. I have it in front of me now, yes. 5 Q. All right. I just want to run briefly through 6 these. The first one, Cooper versus Steele, et al., 7 is that a lawsuit against you and Mr. Steele? 8 A. Are you referring to Item 4 at this point? 9 Q. Yes, I am, the first case that's listed there. 10 A. The first case that's listed in that schedule was 11 brought against Allen Cooper, and the defendants in 12 this case were John Steele, Paul Duffy, Prenda Law, 13 Inc., AF Holdings, LLC, and a company called 14 Ingenuity 13, LLC. I am not a party to that case. 15 Q. Okay. 16 A. So I'm neither a plaintiff nor a defendant nor a 17 counter-plaintiff nor counter-defendant. 18 Q. Okay. So why do you have it listed here? 19 MS. MAY: I did it, Mr. Trustee, out of 20 an abundance of caution because this case had come 21 up again and again and again -- 22 MR. SEAVER: Okay. 23 MS. MAY: -- In my talks with him. 24 BY MR. SEAVER: 25 Q. Okay. And then the next one, AF Holdings, LLC</p>
Page 18	Page 20
<p>1 was 72,000, that one client? 2 A. Yes. 3 Q. And what's the approximate balance now? 4 A. This \$72,000 has been paid, and I don't know what my 5 current account receivable to them is at this point. 6 Q. So this \$72,000 account receivable was collected 7 during the course of the Chapter 13? 8 A. Yes. 9 Q. Was it all gone by the time you converted to a 7 -- 10 Or the time the case was converted to a 7? 11 A. To the best of my knowledge, yes. 12 Q. All right. In the schedules -- I'm going now to 13 Schedule F, which is the unsecured creditors 14 schedules. 15 A. Okay. I have it. 16 Q. Does Schedule F accurately list all of your 17 creditors? 18 A. Yes, although the only point I might clarify is I 19 believe Chowdhury has now been resolved. 20 Q. Chowdhury was the one that was paid in conjunction 21 with the closing on the sale of the condominium? 22 A. That is correct, so I suppose he is not a creditor 23 any longer. 24 Q. Okay, all right. Now, let's go to the Statement of 25 Financial Affairs. Go to Item 4 at the Statement of</p>	<p>1 versus Patel, are you a defendant in that? 2 A. I am not a party to that case. That case the 3 plaintiff is just AF Holdings and the defendant is a 4 gentleman by the name of Frahesh (phonetic) Patel. 5 Q. In either of these first two, is there any motion 6 against you for sanctions? 7 A. In the first case, at one point I believe they tried 8 to have me added to it. They were unsuccessful in 9 doing so. In the second case I don't believe 10 there's anything pending against me personally, but, 11 again, the attorney in that case I know would like 12 to have me added to it even if he hasn't formally 13 filed anything. 14 Q. Okay. And then Guava, LLC, I'm on the next one on 15 this list, it says judgment entered. 16 A. That one, although I was never a party to the case, 17 judgment was, nevertheless, entered against me in 18 the case in the amounts that are described. 19 Q. Okay. And how much? Just tell me roughly with that 20 one. 21 A. Ballpark about 64,000. 22 Q. Okay. 23 A. And one of those judgments has been fully satisfied 24 and the rest remain. 25 Q. Okay. How did that get satisfied? When was payment</p>

**U.S. BANKRUPTCY APPELLATE PANEL
FOR THE EIGHTH CIRCUIT**

In re: BKY 15-42460
Paul Robert Hansmeier,
Debtor. Chapter 13

Paul Robert Hansmeier, Appeal No. 15-6035
Appellant,
v.
Daniel McDermott, United States Trustee,
Appellee.

AFFIDAVIT IN SUPPORT OF MOTION FOR STAY PENDING APPEAL

STATE OF MINNESOTA)
)SS.
COUNTY OF WASHINGTON)

Paul R. Hansmeier, being duly sworn upon oath, states and alleges as follows:

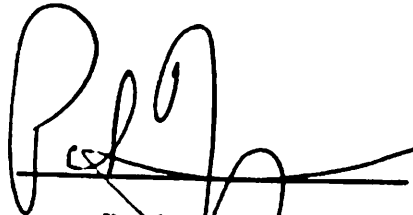
1. I am the debtor in the above-captioned proceeding, and I make this affidavit in support of my motion for a stay pending the decision on this appeal.
2. I was not a party or served with process in the litigation giving rise to the damage awards asserted by the claimants as the basis for claims 9, 10 and 11 in this proceeding. The damages in those cases consist of attorney fees and punitive damages against the parties to those cases. No judgment was entered against me in any of those cases.
3. I am not a principal of Prenda Law, Inc.

EXHIBIT 4

4. From the beginning of this case, it has been my goal to put an end to the claims against me by paying my creditors 100% of their legitimate claims.
5. The Bankruptcy Court suggested that I tried to conceal the sale of my homestead. As I looked at the prospect of meeting the 100% plan from my income, it became apparent that sale of the homestead would ensure my ability to fund my plan and reduce my monthly expenses. My wife and I contacted a realtor about the possibility of selling it, and we signed a listing agreement. I did not know I was required to get court approval prior to signing the listing agreement. We received an offer nearly immediately. As soon as the offer was received, I informed my attorney and she amended the schedules, filed an amended plan, and moved for court approval of the proposed sale, which I received. My plan proposed using the homestead proceeds to pay my plan in full 6 months from the time I filed my case.
6. I disclosed the claims against me and their amounts to the best of my knowledge and belief. All claims that have been made except the objected-to claims were set out in my schedules. I was not a party to those lawsuits, and those claims were not against me.
7. The Bankruptcy Court has criticized me for errors in my schedules involving the Mill Trust, an irrevocable trust that I settled in 2010, and for confusion regarding my household expenses. I did not intend any deception by these errors and I am trying to pay my creditors 100% of their claims.
8. The Bankruptcy Court has asserted that I liquidated an estate asset when I used the

accounts receivables associated with my law practice. The accounts receivables were used to run my law practice and to fund my Chapter 13 plan. My accounts receivables were are earned and spent and earned again on a monthly basis, like any business.

Dated: February 16, 2016



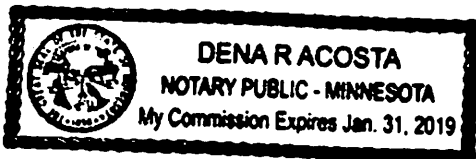
Paul Hansmeier

Subscribed and sworn to before me

This 16 day of February, 2016.



NOTARY PUBLIC



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EXHIBIT 5

<p>5</p> <p>1 Q Okay.</p> <p>2 MS. MAY: But isn't that available on</p> <p>3 Pacer?</p> <p>4 THE WITNESS: No, it's not.</p> <p>5 MS. MAY: Okay.</p> <p>6 BY MR. SEAVER:</p> <p>7 Q It was a confidential thing, wasn't it?</p> <p>8 A I believe it was filed under seal.</p> <p>9 Q Yeah.</p> <p>10 A So I can't access it now.</p> <p>11 Q So you have it, you just haven't been able to locate</p> <p>12 it?</p> <p>13 A I believe I have it, but I have not been able to</p> <p>14 locate it --</p> <p>15 Q Okay.</p> <p>16 A -- the past 24 hours.</p> <p>17 Q All right. The first thing I want to talk about</p> <p>18 here is the Groupon case that has come to my</p> <p>19 attention and the Padraigin Brown objection in the</p> <p>20 Groupon case. I have seen the motion of Ms. Brown</p> <p>21 for attorney's fees and a service award. And you're</p> <p>22 representing her in that, correct?</p> <p>23 A Various attorneys have represented her through the</p> <p>24 pendency of the litigation. I am representing her</p> <p>25 in connection with the motion to support the request</p>	<p>7</p> <p>1 employed by a law firm and then there was a period</p> <p>2 of time where he was not employed by a law firm.</p> <p>3 Q So the law firm that he was employed by at whatever</p> <p>4 time, what's the name of that law firm?</p> <p>5 A I believe it would have been the Class Action</p> <p>6 Justice Institute.</p> <p>7 Q All right. And who was the shareholder of that law</p> <p>8 firm?</p> <p>9 A I was the shareholder of that law firm.</p> <p>10 Q The sole one, right?</p> <p>11 A The sole shareholder.</p> <p>12 Q Okay. And does Ms. Brown have a contingency fee</p> <p>13 agreement with someone?</p> <p>14 A You would have to ask her. She does not have one</p> <p>15 with me.</p> <p>16 Q Has she had one with any of your law firms?</p> <p>17 A She has not had a contingency fee agreement with any</p> <p>18 of my law firms, to the best of my knowledge.</p> <p>19 Q Okay. And I ask that because I see in the objector</p> <p>20 Memorandum of Law in opposition to the motion,</p> <p>21 et cetera, that you filed you're citing a case and</p> <p>22 saying the contingent fee lawyer is not a joint</p> <p>23 owner in his client's claim and it goes on after</p> <p>24 that. Are you telling me that you're unaware of any</p> <p>25 contingent fee agreement between Ms. Brown and</p>
<p>6</p> <p>1 for a service award and attorney's fees.</p> <p>2 Q And when the objection to the Groupon class --</p> <p>3 Proposed class settlement was filed, what law firm</p> <p>4 was representing her?</p> <p>5 A I believe the attorney who filed the objection on</p> <p>6 her behalf was an attorney named Brett Gibbs.</p> <p>7 Q Okay. What law firm, though?</p> <p>8 A I'm sure it shows on the pleading. I don't recall</p> <p>9 what law firm he was.</p> <p>10 Q Well, it was one of your law firms, right?</p> <p>11 A Again, I don't specifically recall which law firm</p> <p>12 Brett Gibbs appeared through in connection with that</p> <p>13 objection. It would be on the caption of the</p> <p>14 filing.</p> <p>15 Q Who was Brett Gibbs employed by?</p> <p>16 A Brett Gibbs is a California attorney, and I'm not</p> <p>17 clear on who he's employed by at that time.</p> <p>18 Q Okay. Who was Mr. Worzel employed by?</p> <p>19 A Mr. Worzel was employed by my law firm at the time.</p> <p>20 Q What's the name of that law firm?</p> <p>21 A It would either be -- It would be class action --</p> <p>22 Well, actually, at the time that Mr. Worzel defended</p> <p>23 Ms. Brown, I'm not sure if he was employed by any</p> <p>24 law firm at that point in time. There was a period</p> <p>25 of time where he was representing her where he was</p>	<p>8</p> <p>1 anyone with respect to the Groupon case?</p> <p>2 A My testimony is that whatever Ms. Brown's agreement</p> <p>3 is with other attorneys in the case, I can tell you</p> <p>4 that she did not have one with me or any law firm</p> <p>5 that I owned.</p> <p>6 Q Okay. And is it right that she, through you as the</p> <p>7 attorney, is seeking something in excess of \$200,000</p> <p>8 in attorney's fees here?</p> <p>9 A I believe that's the correct figure. She's seeking</p> <p>10 an award of 10 percent of the amount awarded to</p> <p>11 class counsel under the common fund theory of</p> <p>12 recovery.</p> <p>13 Q And what are the terms of your retention in</p> <p>14 representing her now?</p> <p>15 A I don't have a specific agreement with her. All I'm</p> <p>16 doing right now is filing the paperwork on her</p> <p>17 behalf to seek the award.</p> <p>18 Q Do I recall right that she bought a \$5 Groupon</p> <p>19 certificate; is that what happened?</p> <p>20 A I'm not going to answer questions about the facts of</p> <p>21 the case because I am representing her and I believe</p> <p>22 that it goes to attorney-client privilege. I</p> <p>23 believe if you look at the documents, her original</p> <p>24 objection, she clarifies what her basis or standing</p> <p>25 is in the case.</p>

<p style="text-align: right;">9</p> <p>1 Q Well, you know what that is, though, sir. And it's</p> <p>2 a matter of public record, so I don't think there's</p> <p>3 any attorney-client privilege here. So what was her</p> <p>4 original Groupon purchase?</p> <p>5 A I don't recall the specifics there. It's set forth</p> <p>6 very specifically in her original objection.</p> <p>7 Q And you just don't have any independent recollection</p> <p>8 of that?</p> <p>9 A I -- I recall that she purchased Groupons and that</p> <p>10 was her basis for standing.</p> <p>11 Q So how do you come up with this over \$200,000 you're</p> <p>12 telling the Court she should be paid as attorney's</p> <p>13 fees, you say?</p> <p>14 A Well, as explained in her motion for attorney's</p> <p>15 fees, it's based on the common fund principle, which</p> <p>16 allows an objector who brings benefits to the class</p> <p>17 to receive some of the benefits of that amount in</p> <p>18 return.</p> <p>19 Q Yeah, but it's attorney's fees. I mean, has she</p> <p>20 paid somebody 200,000 in attorney's fees?</p> <p>21 A I don't think she's come out of pocket for \$200,000</p> <p>22 in attorney's fees, no.</p> <p>23 Q So how do you justify asking for 200,000 in</p> <p>24 attorney's fees if she hasn't paid any attorney's</p> <p>25 fees?</p>	<p style="text-align: right;">11</p> <p>1 is one that Ms. May sent over to Matthew Swanson at</p> <p>2 my office on February 22, 2016 at 9:34 a.m.,</p> <p>3 correct?</p> <p>4 A That's correct.</p> <p>5 Q Okay. Here, let me just show you the docket. I've</p> <p>6 printed the docket for the Lightspeed matter. And</p> <p>7 the bond is in the Lightspeed case, right?</p> <p>8 A That's correct.</p> <p>9 Q Okay.</p> <p>10 A Well, I should be clear. It's money on deposit with</p> <p>11 the Court, not a bond.</p> <p>12 Q Right, okay. And if you turn to the next to last</p> <p>13 page of this docket sheet, there's a long carry-over</p> <p>14 court entry there talking about posting -- I don't</p> <p>15 know if you use the word bonds -- I guess deposit</p> <p>16 with the Court. Is this the bond or the money</p> <p>17 posted with the Court that we're talking about here?</p> <p>18 A Yes, it is --</p> <p>19 Q Okay.</p> <p>20 A -- referring to Entry Number 216.</p> <p>21 Q Yeah, thank you. Yeah, it is 216. So is it</p> <p>22 accurate to say that it was on or about August 10 of</p> <p>23 2015 that the \$65,000 got paid into the Court?</p> <p>24 A Yes.</p> <p>25 Q Okay. And you weren't present at this hearing that</p>
<p style="text-align: right;">10</p> <p>1 A Well, just as in any case where attorney's fees</p> <p>2 don't come out of pocket, for example, a contingency</p> <p>3 fee arrangement or an action where someone may</p> <p>4 represent somebody in a civil rights case and</p> <p>5 there's statutory attorney's fees, at the end of the</p> <p>6 case the attorney, even if the client does not come</p> <p>7 out of pocket, is entitled to recover fees -- Or the</p> <p>8 client, actually, is entitled to recover the fees.</p> <p>9 Q Have you ever seen any written agreement between</p> <p>10 Padraigin Brown and any law firm regarding the</p> <p>11 representation of her in this Groupon case?</p> <p>12 A I have not.</p> <p>13 Q Let me just give you a copy of an email that Ms. May</p> <p>14 sent over to Matthew Swanson of my firm earlier this</p> <p>15 week. In this email Ms. May is talking about one of</p> <p>16 Mr. Hansmeier's appeals involving Anthony Smith and</p> <p>17 the \$65,000 sanction. And she says, this case has a</p> <p>18 supersedeas bond.</p> <p>19 Have you seen a copy of this email</p> <p>20 before?</p> <p>21 A I have.</p> <p>22 Q Okay. Is everything in here accurate?</p> <p>23 A Yeah, I believe so.</p> <p>24 Q Okay. And just so we know what email it is, because</p> <p>25 we don't have exhibits here at a 341 meeting, this</p>	<p style="text-align: right;">12</p> <p>1 Ms. May is referring to, correct?</p> <p>2 A I was not present at the hearing.</p> <p>3 Q Okay. As far as you know, the Court hasn't yet</p> <p>4 ruled on that?</p> <p>5 A The Court has not ruled. The appeal has now been</p> <p>6 taken under advisement.</p> <p>7 Q Okay. Have you reviewed the deposition transcript</p> <p>8 of the 2004 examination of Padraigin Brown that was</p> <p>9 taken last week?</p> <p>10 A No.</p> <p>11 Q Have you looked at any part of it?</p> <p>12 A I have looked at some of it, yes.</p> <p>13 Q All right. What parts did you look at, generally</p> <p>14 what areas?</p> <p>15 A I read through the first maybe half of it.</p> <p>16 Q Okay. Let me just give you a few pages that I'd</p> <p>17 like you to read through. I just want to confirm</p> <p>18 some things with you. What I've given you, it's a</p> <p>19 condensed transcript. And I'd just like you to read</p> <p>20 through pages 60 to the top of page 68 to yourself.</p> <p>21 You don't need to read it out loud. Let me know</p> <p>22 when you're done.</p> <p>23 A Okay. I've read through it.</p> <p>24 Q All right. Thanks. Do you see any of her testimony</p> <p>25 there that you believe is not accurate?</p>

13

1 A Well, some of it I have no personal knowledge of.
 2 The -- I don't think her testimony regarding -- She
 3 had some questions about the dates when Mr. Steele
 4 came over. I don't think August of 2015 is
 5 accurate.
 6 Q Okay.
 7 A I don't know. It was --
 8 Q Well, the bond or the cash was posted with the
 9 Court, the \$65,000, in August of 2015, correct?
 10 A Well, there's been multiple bonds in the case.
 11 There was the original bond that was associated with
 12 the sanction amount, about a quarter million
 13 dollars.
 14 Q And you didn't participate in that one at all,
 15 right?
 16 A That one was money that was loaned to us or
 17 essentially loaned to John by Mr. Bellsbray
 18 (phonetic). And then I think -- I think the cash,
 19 the 60, may have been some effort to pay back Mr.
 20 Bellsbray. So that's why I think August of 2015 may
 21 not be the correct date. I think August 2014 may be
 22 correct.
 23 Q Well, let's go back to the docket entry that we saw,
 24 though. You remember that's August 10 of 2015 --
 25 A Yes.

14

1 Q -- that the \$65,000 gets put into court, correct?
 2 A Yes, that's August of 2015.
 3 Q Right. And you don't believe that's the money that
 4 you and Ms. Brown gave to Mr. Steele?
 5 A No, I don't believe so.
 6 Q So when is it that you believe the money was given
 7 to Mr. Steele?
 8 A In mid-2014.
 9 Q In mid-2014?
 10 A Yes.
 11 Q And other than the date, is her testimony accurate
 12 about the discussion that you and she had about that
 13 before the money was given to him?
 14 A My recollection of that was I had asked her, is
 15 there any way we can put money towards this
 16 sanction. And it was at a point where the judge was
 17 threatening I don't know if it was \$5,000 a day, but
 18 a monetary sanction every single day it didn't get
 19 paid. And she had previously said, no, I'm not
 20 going to allow you to use any of that money; you can
 21 figure out your own way to do it, if it means having
 22 to file for bankruptcy or doing whatever.
 23 And we had a talk and we finally -- She
 24 finally allowed me to use 60,000 of it to at least
 25 offset some of the amount that John ended up paying.

15

1 Q Okay. So you think that was when, sir?
 2 A I believe that was mid-2014, but I don't have a
 3 specific recollection of when it was.
 4 Q Okay.
 5 A Or I suppose it could have been mid-2013, as well,
 6 because that's when everything was more immediate.
 7 The sanction was imposed --
 8 Q Well, had she taken the 180,000 in cash out of the
 9 bank in mid-2013?
 10 A No. I guess because the sanction was imposed at the
 11 end of 2013, so it would have been at some point
 12 from early to mid-2014.
 13 Q Okay. Here, let me show you a few pages of a
 14 transcript from the first session of this Meeting of
 15 Creditors. This is not a condensed one. This is
 16 page 23. And starting at line 15 at page 23, well,
 17 just read through that to yourself, please.
 18 A I'm sorry. Starting at line?
 19 Q Oh, sure. Page 23, if you start reading to yourself
 20 at --
 21 MS. MAY: Two-thirds of the way down.
 22 MR. SEAVER: Yeah.
 23 THE WITNESS: Okay. I've read through
 24 it.
 25 BY MR. SEAVER:

16

1 Q Okay. What you're referring to there, in this
 2 section, where you say, John Steele has provided an
 3 appellate bond to fully secure the amount on appeal,
 4 is that the original bond that you're talking about?
 5 A The bond I'm referring to in this testimony is the
 6 amount that's referred to at Docket 216 of the
 7 Lightspeed case.
 8 Q Okay. So what you're referring to there, in that
 9 testimony, is, like you say, at Item 216, that's
 10 August 10 of 2015?
 11 A Yes.
 12 Q All right. So to come back to the other, was it
 13 exactly \$60,000 that was paid to Mr. Steele?
 14 A I think that's my wife's estimate. I don't recall
 15 if it was 60 or if it was 50. It was somewhere in
 16 that neighborhood.
 17 Q Okay. Did you and she, Ms. Brown, count out the
 18 money before you gave it to Mr. Steele?
 19 A She would have counted it out and given it to
 20 Mr. Steele.
 21 Q And she got it out of that box in the closet where
 22 the original 180,000 in cash or so was?
 23 A Right.
 24 Q Okay. And let's back up a little bit. She withdrew
 25 150,000 in cash from TCF Bank after you wired

<p style="text-align: right;">17</p> <p>1 175,000 into an account held in her name, correct?</p> <p>2 A If that's her testimony. I did not participate in</p> <p>3 the transaction.</p> <p>4 Q But you knew that she was withdrawing 150,000 in</p> <p>5 cash, correct?</p> <p>6 A I was aware that she was withdrawing cash. I wasn't</p> <p>7 aware of the precise amounts.</p> <p>8 Q You knew it was a large amount of money?</p> <p>9 A Yes.</p> <p>10 Q Okay. And then you knew that after you made the</p> <p>11 \$70,000 transfer to her, you knew that she was</p> <p>12 withdrawing a good amount of that in cash, as well,</p> <p>13 correct?</p> <p>14 A I don't recall the specifics of that. I know she</p> <p>15 did the initial large withdrawal. And from that</p> <p>16 point on -- I know she was -- Her intention was to</p> <p>17 get it into cash, yes.</p> <p>18 Q Okay. Did you help her count the \$150,000 cash</p> <p>19 withdrawal?</p> <p>20 A No.</p> <p>21 Q But you knew it was in a box, stored in a box in</p> <p>22 your house after she withdraw it, correct?</p> <p>23 A Yes.</p> <p>24 Q Did you ever take any money out of that box?</p> <p>25 A No.</p>	<p style="text-align: right;">19</p> <p>1 which is April 8 of 2014, you see that it says,</p> <p>2 supersedeas bond in the amount of \$287,300 posted by</p> <p>3 John Steele.</p> <p>4 Do you see that?</p> <p>5 A Yes.</p> <p>6 Q And is it your testimony that the 60,000 or whatever</p> <p>7 the exact amount of cash was that you and Ms. Brown</p> <p>8 gave to John Steele went to that bond?</p> <p>9 A Yeah, to offset what he had to post, yes.</p> <p>10 Q So how long before April 8, 2014 did you and</p> <p>11 Ms. Brown give him this cash?</p> <p>12 A It was either -- Well, it would have been</p> <p>13 immediately before or slightly after.</p> <p>14 Q Okay. So in April of 2014?</p> <p>15 A I don't recall if it was in April or if it was in</p> <p>16 May or...</p> <p>17 Q Or February or January?</p> <p>18 A It was either -- It was around the time. I don't</p> <p>19 recall specifically when it was.</p> <p>20 Q And you agree with your -- With Ms. Brown's</p> <p>21 testimony that Mr. Steele was in town and the money</p> <p>22 was given to him in cash?</p> <p>23 A Yeah. He was visiting in town and -- Yes.</p> <p>24 Q All right. So back to Ms. May's email that's</p> <p>25 talking about the \$65,000 bond that will come to the</p>
<p style="text-align: right;">18</p> <p>1 Q Did you ever look in that box?</p> <p>2 A No.</p> <p>3 Q So you certainly knew by early 2014 that all that</p> <p>4 money had been taken out in cash, didn't you?</p> <p>5 A I can't say I would have specifically known. I know</p> <p>6 that she was -- Her intention was to reduce it to</p> <p>7 cash.</p> <p>8 Q Well, you certainly knew by the time that you and</p> <p>9 she paid the 60,000, or whatever it was, to</p> <p>10 Mr. Steele, correct?</p> <p>11 A No, because if you have 150, the initial withdrawal,</p> <p>12 I knew she was taking out a large amount. That</p> <p>13 certainly would have covered the 60.</p> <p>14 Q Okay. So you knew by the time you gave the money to</p> <p>15 Mr. Steele, you knew there was at least 150,000 in</p> <p>16 cash, right?</p> <p>17 A Well, I knew there was at least 60,000 in it cash or</p> <p>18 50,000, whatever amount was given to him.</p> <p>19 Q And you knew the source of that funds was one of the</p> <p>20 two large wire transfers that you had sent to her</p> <p>21 TCF account, didn't you?</p> <p>22 A That would be fair to say, yes.</p> <p>23 Q Okay. And from that docket that you still have in</p> <p>24 front of you, I'm just trying to find when the</p> <p>25 original bond was posted. If you turn to Item 149,</p>	<p style="text-align: right;">20</p> <p>1 estate, as I understand what you're saying here</p> <p>2 today, that has to do with the Docket Entry 216?</p> <p>3 A Yes.</p> <p>4 Q All right. And you agree that's estate property as</p> <p>5 well; you agree with her email?</p> <p>6 A What I understand is that we would not object to</p> <p>7 that money being turned over to the estate.</p> <p>8 Q And what's the source of that money?</p> <p>9 A The source of the money is John Steele's funds being</p> <p>10 transferred to the court administrator for the</p> <p>11 Southern District of Illinois.</p> <p>12 Q And those are all John Steele's money; it doesn't</p> <p>13 include any money from you or Ms. Brown?</p> <p>14 A That's correct. It's money from John Steele's bank</p> <p>15 account to the Court.</p> <p>16 Q Right. Did you or Ms. Brown give Mr. Steele any</p> <p>17 money to put into that bank account that constituted</p> <p>18 that payment to the Court in August of 2015?</p> <p>19 A The major transfer I made to John Steele was the</p> <p>20 cash in approximately 2014. So I don't know if it's</p> <p>21 the Trustee's position that that's somehow my money</p> <p>22 that John Steele put in there or not, but we did not</p> <p>23 cut him a check, for example, immediately before him</p> <p>24 posting the bond with the Southern District of</p> <p>25 Illinois.</p>

<p style="text-align: right;">21</p> <p>1 Q Let's go back to my question, though. Other than 2 the 60,000 or so that you and Ms. Brown gave to him 3 in 2014, around April, as I understand it, did you 4 give any money, transfer any money, cause any money 5 to be transferred to Mr. Steele after April of 2014? 6 A If I did, it was smaller amounts. It wasn't a large 7 amount. 8 Q What does that mean, smaller amounts? Less than 9 \$5,000 a transfer? 10 A Most likely. I mean, it would not have been a 11 series of transfers. It may have been a one-off 12 expense. For example, I don't recall when we had -- 13 We had some appellate fees at the time. And so, for 14 example, if he would have paid the appellate fees, I 15 would have paid half of it. 16 Q All right. So as I understand your testimony, the 17 \$65,000 posted with the Court in August of 2015 was 18 all Mr. Steele's money? 19 A It came from Mr. Steele's bank account, yes. 20 Q And you know that for sure? 21 A Actually, I should qualify that. I don't know if he 22 had to borrow some money from a family member to 23 post it, but I believe that it came from his bank 24 account. 25 Q So then what you're telling me is that you believe</p>	<p style="text-align: right;">23</p> <p>1 focusing now on page 66 to 67, you read through 2 that, I know, earlier. And this testimony has to do 3 with cash at the time of the bankruptcy filing. And 4 in summation, what she testified was that you and 5 she sat down and counted the cash that was there at 6 the time of your bankruptcy filing. Is that true? 7 A That's true. The amount that we counted up was the 8 amount that I put in my schedules. 9 Q Well, her testimony is that there -- So was her 10 testimony not true when she's talking about the 11 process? 12 A Well, I can tell you what happened and then you can 13 make the decision for yourself if it's consistent or 14 not consistent with her testimony. What happened is 15 I said, what money is in the trust; we need to 16 disclose that money on the bankruptcy schedule. 17 Q Wait a minute. When you say in the trust, you mean 18 in a box sitting in your condominium? 19 A The trust. 20 Q It's cash sitting in a box in your condominium. 21 What trust is it in? 22 A The Mill Trust. 23 Q So it's your testimony, as an attorney, that cash 24 sitting in a box in your condominium was in the Mill 25 Trust?</p>
<p style="text-align: right;">22</p> <p>1 the estate is entitled to this money that Mr. Steele 2 put up? 3 A My position is I would have no objection to it being 4 turned over to the estate. I understand that 5 Mr. Steele may have a different position, but my 6 position is that if the estate sought turnover of 7 those funds, I would have no basis for objecting to 8 it. 9 Q By what point in time did you know that there was at 10 least \$150,000 in cash in your house, in the 11 condominium? 12 A I guess my testimony would be my wife handled all of 13 the cash and all of those positions. I did not 14 inquire into where she was keeping the money. I 15 understood that there was at least some cash in the 16 box. I don't know if she had other places where she 17 stored the money, but the point is that she 18 controlled that. I did not have knowledge about 19 those. 20 Q Well, by April of 2014, at least, you knew that 21 there was in excess of \$60,000 of cash in your 22 condominium? 23 A I knew there was at least the amount that John 24 Steele received. 25 Q All right. Going back to Ms. Brown's testimony and</p>	<p style="text-align: right;">24</p> <p>1 A Legally speaking, yes. 2 Q Okay. So go ahead and finish telling me what it was 3 you did. 4 A I asked her what money is left in the trust because 5 we need to disclose that on the bankruptcy filing. 6 She said, that's not your money. And I said, well, 7 we're going to disclose it out of an abundance of 8 caution to ensure that we're being as -- We're 9 disclosing everything possible; and if you want to 10 have a fight over that, you can have a fight over 11 that at the appropriate time. So I said, get 12 whatever money is left in there, let's count it up 13 and we can disclose it on the schedules. She came 14 back and she had whatever amount it was that I 15 disclosed on the schedules. 16 Q So her testimony would indicate that you folks 17 counted up the money that was there and then 18 deducted from that total amount money that she was 19 going to keep to pay some bills. You see that, 20 right? 21 A I don't agree that that's a correct characterization 22 of her testimony. What her testimony is, is that 23 she had the 20,900; but when she brought the money 24 out, she had the amount that we disclosed on the 25 schedules.</p>

<p style="text-align: right;">25</p> <p>1 Q Where does she say that, sir? Would you just point 2 that out to me? 3 MS. MAY: Line 18, 66. 4 MR. SEAVER: Line 18 on page -- 5 MS. MAY: That's where she's talking 6 about 29,900, it looks like. Is that where we're 7 coming up with the 29,900 hundred? 8 THE WITNESS: Yep. 9 BY MR. SEAVER: 10 Q So then I go on to say, I'm on page 67, line 4, so 11 you and Mr. Hansmeier sat down and counted out how 12 much money was left there, correct? And she says, 13 yes. I say, okay. She says, pretty close; I mean, 14 there was probably some ones and stuff lying around. 15 And I say, what did you come up with for a total? 16 She says, I don't remember exactly how much it was. 17 I say, okay, then you and he talked and decided 18 rather than stating how much cash was actually 19 there, you would deduct for cash for things that you 20 were going to pay in the future? And then she says, 21 for things that had already been purchased on my 22 credit cards and that needed to be paid off, they 23 had already -- I had already essentially bought 24 them; we had the things. 25 So just so I'm clear on what you're</p>	<p style="text-align: right;">27</p> <p>1 account at some point of that amount. 2 Q But you didn't even get a receipt from him when you 3 gave him the \$60,000 or so? 4 A We did not create a receipt and fill it out, no. 5 Q I'm going to move on to the accounts receivable now, 6 and I'm just putting in front of you some documents. 7 I think they were on the drop box. I think these 8 relate to accounts receivable, right? 9 A That's correct. 10 Q All right. And is it accurate to say that -- Well, 11 let me just identify them. There's a transfer into 12 your law firm account on July 30, 2015 of 13 \$36,833.34, correct? 14 A Could you repeat that, please? 15 Q Oh, sure. There's a transfer on July 30th of 2015 16 for \$36,833.34, correct? 17 A Yes, there's a transfer of that amount. 18 Q And then the next page of this there's a transfer on 19 August 31st of 2015 for \$17,500, correct? 20 A Correct. 21 Q The next page of this there's a transfer on 22 September 30 of 2015 for \$28,344, correct? 23 A That's correct. 24 Q And then the last two pages there's a deposit slip 25 showing a \$1,000 deposit, correct?</p>
<p style="text-align: right;">26</p> <p>1 saying here, sir, you didn't have a clue that there 2 was more than \$8,554 in cash in that condominium on 3 the date that you filed bankruptcy? 4 A That's correct. I had no idea what the balance of 5 the cash was, other than I asked her to give us 6 whatever cash is in there so we can simply disclose 7 it on the schedules. 8 Q And I sent a letter to Ms. May on February 4th and 9 asked for all documents and receipts evidencing what 10 was done with the \$150,000 in cash that was taken 11 out of that TCF account. You haven't given me 12 anything for that, have you? 13 A I believe you've been provided documents related to 14 my wife's bank accounts, and you've also received 15 the Scott Trade wire transfer from the Scott Trade 16 account to my wife's personal TCF account. 17 Q I haven't gotten any receipt for that 50 or 60,000, 18 however much money it was that you folks say that 19 you gave to the other attorney. Is there such a 20 thing? 21 A I don't believe we have a receipt, but we have my 22 wife's testimony of what happened, we have my 23 testimony of what happened and I'm sure Mr. Steele's 24 testimony would be consistent with that, as well, 25 plus the deposit I'm sure he made into a bank</p>	<p style="text-align: right;">28</p> <p>1 A Correct. 2 Q And these documents that I've just referred to, do 3 they accurately reflect the accounts receivable -- 4 The collection of accounts receivable that existed 5 at the time your Chapter 13 was commenced? 6 A Yes. 7 Q All right. And if you total these up, they total 8 something in excess of \$83,000, correct? 9 A That sounds correct. 10 Q So your schedule said 72,000, but that was low, 11 correct? 12 A No. 13 Q How is that, sir? 14 A Well, because these are the transfers that are paid 15 down on the accounts receivables. The last transfer 16 included paydown of a receivable that was in excess 17 of the original amount. So some of it is going 18 towards paying down receivables, some of it is money 19 that was not related to anything that was in the 20 estate as of the time of filing. 21 Q But yet this is all you've given me in response to 22 my repeated requests for account receivable 23 information, isn't it, other than those four line 24 items? And now you're telling me this doesn't 25 accurately represent accounts receivable payments?</p>

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<p style="text-align: right;">29</p> <p>1 A It does accurately reflect account receivable</p> <p>2 payments. The point I'm trying to make is that on</p> <p>3 the final payment, that's an amount of roughly</p> <p>4 \$28,344, this is the transfer that paid down the</p> <p>5 remaining balance of the account receivables. Some</p> <p>6 of it does not go towards account receivables; it</p> <p>7 goes towards account receivables that generated</p> <p>8 after the Chapter 13 filing.</p> <p>9 Q All right. What I have been requesting for some</p> <p>10 time is some accounting for those pre-petition --</p> <p>11 For the accounts receivable that existed at the time</p> <p>12 of filing, and what you're telling me is I still</p> <p>13 don't have it. I can't possibly tell from these</p> <p>14 documents, in that last statement you were just</p> <p>15 talking about, what account -- What of those are</p> <p>16 account receivables at the time of filing, can I?</p> <p>17 Well, here, let me say it once more: I want the</p> <p>18 records showing the post-petition collection of the</p> <p>19 accounts receivable that existed at the time of</p> <p>20 filing and I want to be able to see where those are</p> <p>21 coming from, all right?</p> <p>22 A I believe you have these, but I will ask my attorney</p> <p>23 to work with you to make sure you're getting what</p> <p>24 you're requesting. I think this is what you're</p> <p>25 requesting. You're telling me it's not, but I'll be</p>	<p style="text-align: right;">31</p> <p>1 other business, to pay off -- To pay business</p> <p>2 expenses and continue operating the business.</p> <p>3 Q It just never occurred to you that perhaps you</p> <p>4 should turn it over to the Chapter 13 Trustee?</p> <p>5 A Again, I used the accounts receivable money to</p> <p>6 operate my business in the ordinary course.</p> <p>7 Q It just never -- Just answer my question, though, if</p> <p>8 you would: Did it ever occur to you that you should</p> <p>9 turn that money over to the Chapter 13 Trustee?</p> <p>10 A I guess my answer continues to be it occurred to me</p> <p>11 to continue operating my business in the ordinary</p> <p>12 course. And my understanding is that that was -- It</p> <p>13 was fine to operate my business in the ordinary</p> <p>14 course.</p> <p>15 Q Is your understanding that you were free to use</p> <p>16 those pre-petition assets in any way you deemed</p> <p>17 appropriate?</p> <p>18 A Nope.</p> <p>19 Q Here, let me put in front of you an affidavit that</p> <p>20 you signed, sir. And this is an affidavit, Paul</p> <p>21 Hansmeier. And if you go to the very last page,</p> <p>22 it's dated February 16, 2016. Do you see that?</p> <p>23 A I do.</p> <p>24 Q And that's your signature, right?</p> <p>25 A It is.</p>
<p style="text-align: right;">30</p> <p>1 happy to try and provide them.</p> <p>2 Q All right. So on the first page of this, this</p> <p>3 \$36,833.34, that's all pre-petition accounts</p> <p>4 receivable, right?</p> <p>5 A It would be, yes.</p> <p>6 Q Okay. And you got that 17 days after your</p> <p>7 bankruptcy filing, correct?</p> <p>8 A If that's the math, yes.</p> <p>9 Q Well, you filed on July 13th, right?</p> <p>10 A I believe that's correct.</p> <p>11 Q So when you got in this \$36,833.34 that you knew was</p> <p>12 estate property, why didn't you just turn that money</p> <p>13 over to the Chapter 13 Trustee?</p> <p>14 A I'm not sure why I would have turned that money over</p> <p>15 to the Chapter 13 Trustee.</p> <p>16 Q Well, you scheduled it as an asset of the estate,</p> <p>17 didn't you?</p> <p>18 A Yes, but my understanding of using assets in the</p> <p>19 course of bankruptcy is that if you are operating a</p> <p>20 business, for example, in the ordinary course, which</p> <p>21 I was, the money would have gone to pay employees,</p> <p>22 pay rent, pay basic office overhead.</p> <p>23 Q So to come back to my question, so why didn't you</p> <p>24 turn it over to the Chapter 13 Trustee?</p> <p>25 A The accounts receivable were processed just as any</p>	<p style="text-align: right;">32</p> <p>1 Q And the second sentence or the third -- Or the</p> <p>2 second sentence up from the bottom says, the</p> <p>3 accounts receivables were used to run my law</p> <p>4 practice and to fund my Chapter 13 plan, correct?</p> <p>5 A That's what the sentence says, yes.</p> <p>6 Q So those receivables that existed at the time of</p> <p>7 filing that you collected after the bankruptcy</p> <p>8 filing were used to fund your Chapter 13 plan?</p> <p>9 A The receivables would have been used to --</p> <p>10 Q Just answer my question, if you would, sir. Well,</p> <p>11 let me ask you a different one: Is this affidavit</p> <p>12 true?</p> <p>13 A Yes.</p> <p>14 Q Okay. So it is true that the pre-petition accounts</p> <p>15 receivable were used to fund your Chapter 13 plan;</p> <p>16 is that true?</p> <p>17 A If I may answer the question.</p> <p>18 Q Is that true? Is it true? It's a yes-or-no</p> <p>19 question. Is this affidavit, what I read, is it</p> <p>20 true or false?</p> <p>21 A The affidavit is true.</p> <p>22 Q Okay. So why, when we asked Ms. May to turn over</p> <p>23 those funds that she's holding from the Chapter 13</p> <p>24 Trustee, was that request refused?</p> <p>25 A It's my position that those are not assets of the</p>

<p style="text-align: right;">33</p> <p>1 Chapter 7 estate.</p> <p>2 Q Regardless of the fact that you have represented to</p> <p>3 the Bankruptcy Appellate Panel that the pre-petition</p> <p>4 receivables were used to fund the plan, you're</p> <p>5 saying here, under oath, that they're not property</p> <p>6 of the Chapter 7 estate?</p> <p>7 A My legal position is those funds --</p> <p>8 Q Is that what you're saying?</p> <p>9 A My legal position is that those funds are not</p> <p>10 property of the converted Chapter 7 estate.</p> <p>11 Q And why is that, sir, if they were accounts</p> <p>12 receivable that existed at the time the case was</p> <p>13 filed?</p> <p>14 A I believe the Supreme Court's decision in -- I can't</p> <p>15 remember the name of the case --</p> <p>16 MS. MAY: Harris.</p> <p>17 THE WITNESS: Harris -- states that</p> <p>18 post-petition wages are not properly part of the</p> <p>19 converted Chapter 7 estate.</p> <p>20 BY MR. SEAVER:</p> <p>21 Q So you're saying when you took those accounts</p> <p>22 receivable that existed at the time of filing and</p> <p>23 ran them through your law firm, you somehow</p> <p>24 transformed them into assets that are no longer</p> <p>25 property of the bankruptcy estate; is that it?</p>	<p style="text-align: right;">35</p> <p>1 estate?</p> <p>2 A I believe the accounts receivable --</p> <p>3 Q Is that your position, sir?</p> <p>4 A If you may allow me to talk through my position so I</p> <p>5 can provide an answer to your question, is that</p> <p>6 okay?</p> <p>7 Q Go ahead.</p> <p>8 A It's my understanding that the accounts receivable</p> <p>9 were used in the ordinary course of operating a</p> <p>10 business, just as they had been used prior to filing</p> <p>11 and post-filing. And due to their use in the</p> <p>12 ordinary course of business, I don't believe they</p> <p>13 are part of the converted Chapter 7 estate.</p> <p>14 Q Okay. So when your Chapter 13 was filed, there was</p> <p>15 \$72,000 sitting right there that would have been</p> <p>16 available to creditors, right?</p> <p>17 A There was \$72,000 in accounts receivables. The</p> <p>18 creditors, I don't think, could have done much with</p> <p>19 them.</p> <p>20 Q Well, you collected them all by August, right?</p> <p>21 A Yes. The accounts receivables were -- Well, not by</p> <p>22 August. Whatever the last date of the -- September</p> <p>23 I guess --</p> <p>24 Q Okay.</p> <p>25 A -- end of September.</p>
<p style="text-align: right;">34</p> <p>1 A That's my legal position, that these funds are not</p> <p>2 property of the converted Chapter 7 estate.</p> <p>3 Q For the reason I just said; is that true?</p> <p>4 A Well, I don't think it's very fair to go through a</p> <p>5 fully developed legal argument. I believe this is</p> <p>6 something we can brief and present to the Court and</p> <p>7 receive a decision.</p> <p>8 Q Yeah, but I want your factual position here, sir.</p> <p>9 Because you've made a representation to the</p> <p>10 Bankruptcy Appellate Panel that the pre-petition</p> <p>11 funds were used to fund your Chapter 13 plan, but</p> <p>12 yet you won't turn the money over to me and I'm</p> <p>13 entitled to know why that is.</p> <p>14 A It's a legal position. And we can certainly brief</p> <p>15 it before the Court and have the Court make a</p> <p>16 determination whether my legal position is sound or</p> <p>17 whether your legal position is sound.</p> <p>18 Q Well, let me just tell you that it's going to come</p> <p>19 on very quickly. The issue is going to be brought</p> <p>20 to the Court very quickly.</p> <p>21 So is it your view, sir, that you don't</p> <p>22 have to pay the Chapter 7 -- You don't have to pay</p> <p>23 any of the \$72,000 in accounts receivable that</p> <p>24 existed at the time of filing; there's no reason for</p> <p>25 you to ever pay any of that money to the Chapter 7</p>	<p style="text-align: right;">36</p> <p>1 Q Right. So by the end of September, that whole</p> <p>2 \$72,000 had come in. And if you'd been in a</p> <p>3 Chapter 7, it would have been paid to creditors.</p> <p>4 A If it was in a Chapter 7 at the time of the filing,</p> <p>5 then, yes, I believe the creditors would have -- I</p> <p>6 assume the Trustee would have taken an action to</p> <p>7 liquidate those accounts receivables and pay them</p> <p>8 off to the estate.</p> <p>9 Q And now they're just gone, in your view?</p> <p>10 A In the ordinary course of operating the law firm,</p> <p>11 the accounts receivables were collected and they</p> <p>12 were used to pay off ordinary business expenses.</p> <p>13 Q And in your view, the Chapter 7 Trustee just has no</p> <p>14 ability to get that \$72,000 back?</p> <p>15 A Yes. I think that's one of the consequences of</p> <p>16 converting an estate. I think the law is pretty</p> <p>17 clear that if you convert an estate and there was</p> <p>18 assets that were used between the time of the</p> <p>19 original filing and the time of conversion, that the</p> <p>20 estate gets everything that was there at the time of</p> <p>21 filing with the exception of assets that were used</p> <p>22 in the ordinary course.</p> <p>23 MR. SEAVER: Mr. Kreuziger, I'm just</p> <p>24 about done here. Do you have anything?</p> <p>25 MR. KREUZIGER: I do have just a few</p>

37

1 questions.

2

3 EXAMINATION

4 BY MR. KREUZIGER:

5 Q Mr. Hansmeier, my name is Colin Kreuziger. I'm with

6 the United States Department of Justice and I

7 represent the U.S. Trustee.

8 Following up on Mr. Seaver's questions

9 about the accounts receivable, do you have any

10 records that would substantiate your claim that you

11 used those accounts receivable that you collected to

12 pay business expenses?

13 A Yes. I believe the operating accounts of the law

14 firm, which I believe are in Mr. Seaver's

15 possession, would show how the funds were used.

16 Q Do you have any other records that your law firm

17 keeps that would show the use of those funds to pay

18 the business expenses?

19 A For example, ADP, the payroll processor, would show

20 funds being used, paying employees, for example.

21 Q Does your law firm keep any kind of ledger?

22 A I don't believe we do, but that's something I could

23 double check on.

24 Q Can you provide any ledger or similar document to

25 me?

38

1 A Yeah. If I -- I'll go back and see if we have a

2 ledger. And if I have a ledger, I'll -- Do you have

3 access to the drop box?

4 Q I don't, but I'm sure that Mr. Seaver could provide

5 it.

6 MR. SEAVER: Sure.

7 MR. KREUZIGER: Mr. Seaver, do you have

8 the operating accounts for the law firm, as Mr.

9 Hansmeier has indicated?

10 MR. SEAVER: You know, I don't remember

11 right offhand, Mr. Kreuziger, if they're in the drop

12 box or not. There are some bank statements there

13 for sure, but I don't know if -- Are there operating

14 accounts, sir, I mean, as opposed to just bank

15 account statements?

16 THE WITNESS: When I say operating, I'm

17 just distinguishing between like the IOLTA Trust

18 account and the operating account, so it would be

19 the bank account.

20 BY MR. KREUZIGER:

21 Q So you also testified that some of the funds that

22 were collected that are attributed to these accounts

23 receivable were used to make Chapter 13 plan

24 payments, correct?

25 A They were -- They were paid as post-petition wages

39

1 to me and then I used my post-petition wages to make

2 Chapter 13 payments.

3 Q Okay. And do you have documentation of -- Well,

4 strike that question.

5 When the funds were delivered to you as

6 post-petition wages, how did they come to you?

7 A They would have gone from my business account to my

8 joint checking account.

9 Q Okay. And have you provided bank statements to

10 Mr. Seaver that would evidence that?

11 A I believe we have.

12 MR. SEAVER: There aren't any payroll

13 checks, are there, sir? There are just checks in

14 even amounts written by you to you drawn on the

15 Class Justice account?

16 THE WITNESS: I would have withdrawn them

17 by checks, yes.

18 MR. SEAVER: So there's no withholding on

19 any of those. They're just checks that you wrote on

20 the Class Justice account, Paul Hansmeier, and then

21 you deposited into your account, right?

22 THE WITNESS: I don't believe there's

23 withholding on those. They were checks that I wrote

24 from my business account to myself and then

25 deposited them into the joint checking account with

40

1 my wife.

2

3 BY MR. KREUZIGER:

4 Q Which checking account is that; what bank is that

5 held on?

6 A It's Associated Bank.

7 Q Now, you had testified about various bonds in the

8 Lightspeed case earlier and I just wanted to clarify

9 a few matters there. With respect to the \$60,000

10 that was paid to Mr. Steele --

11 A Uh-huh.

12 Q -- your testimony is that Ms. Brown gave those funds

13 in cash to Mr. Steele, correct?

14 A That's correct.

15 Q And you believe that would have been approximately

16 April of 2014?

17 A Yes.

18 Q And is it your testimony that those funds belonged

19 to Ms. Brown at the time of that transfer?

20 A My testimony is that they belonged to the Mill Trust

21 at the time.

22 Q And all the funds that went into the Mill Trust were

23 your funds originally, correct?

24 A I believe that's correct, yes.

25 MR. SEAVER: The funds had been paid out

<p style="text-align: right;">41</p> <p>1 of the Mill Trust to Ms. Brown's personal account,</p> <p>2 though, you know that, right?</p> <p>3 THE WITNESS: The custody of the funds</p> <p>4 was held in Ms. Brown's personal account, yes.</p> <p>5 MR. SEAVER: Right. The funds were</p> <p>6 transferred into her personal account, she took it</p> <p>7 out in cash?</p> <p>8 THE WITNESS: Yes. She had custody of</p> <p>9 the funds, that's correct, as the Trustee for the</p> <p>10 Mill Trust.</p> <p>11 MR. SEAVER: The account that you had</p> <p>12 those funds transferred into, sir, does it say that</p> <p>13 it's an account held as trustee for the Mill Trust?</p> <p>14 THE WITNESS: Does Ms. Brown's personal</p> <p>15 account say?</p> <p>16 MR. SEAVER: The personal account of</p> <p>17 Ms. Brown that you had those funds transferred into,</p> <p>18 does it say it's an account held in her capacity as</p> <p>19 trustee of the Mill's Trust?</p> <p>20 THE WITNESS: I don't know. I've never</p> <p>21 reviewed the account document she has.</p> <p>22 MR. SEAVER: You don't know; is that your</p> <p>23 testimony?</p> <p>24 THE WITNESS: My testimony is I've never</p> <p>25 reviewed the account documents associated with my</p>	<p style="text-align: right;">43</p> <p>1 Mr. Steele in cash was then used by Mr. Steele to</p> <p>2 post an earlier bond in the same case; is that</p> <p>3 right?</p> <p>4 A That's my understanding of how he used those funds.</p> <p>5 When we gave him the funds, he was going to</p> <p>6 contribute it towards the approximately \$260,000</p> <p>7 bond that was posted with the Court. I can't --</p> <p>8 Obviously I can't tell you what Mr. Steele</p> <p>9 physically did with it after he took possession of</p> <p>10 the cash and whether any of those funds that he</p> <p>11 received would in some manner be traceable to the</p> <p>12 amount he posted with the Court. That's my only</p> <p>13 point I'm trying to make.</p> <p>14 Q So what you're saying, then, is that it's possible</p> <p>15 that the \$60,000 in cash perhaps wasn't used for the</p> <p>16 earlier bond because you don't know --</p> <p>17 MS. MAY: Only Mr. Steele would know</p> <p>18 that.</p> <p>19 THE WITNESS: That's my testimony. Only</p> <p>20 Mr. Steele would know how he used the money.</p> <p>21 BY MR. KREUZIGER:</p> <p>22 Q Okay. So you can't really say, sitting here today,</p> <p>23 whether or not any of the funds that Mr. Steele</p> <p>24 posted in August of 2015 for that bond are</p> <p>25 attributable to you, to the Mill Trust, to your wife</p>
<p style="text-align: right;">42</p> <p>1 wife's account at TCF Bank.</p> <p>2 MR. SEAVER: Go ahead, Mr. Kreuziger.</p> <p>3 MR. KREUZIGER: Thank you, Mr. Seaver.</p> <p>4 BY MR. KREUZIGER:</p> <p>5 Q With respect to -- I believe it's a \$65,000 bond</p> <p>6 that was posted in August of 2015?</p> <p>7 A Yes.</p> <p>8 Q Okay. So with respect to that bond, it's your</p> <p>9 testimony that none of the funds that were used to</p> <p>10 post that bond were your funds, correct?</p> <p>11 A Mr. Steele posted the bond, yes.</p> <p>12 Q Well, that's not my question. My question is, is</p> <p>13 were any of the funds that were used to post the</p> <p>14 bond your funds?</p> <p>15 A I don't claim ownership to any of those funds.</p> <p>16 Q Okay. Did any of the funds that Mr. Steele used to</p> <p>17 post that bond originate with the Mill Trust?</p> <p>18 A This is the point I was trying to make to Mr. Seaver</p> <p>19 before: I obviously transferred cash to him in the</p> <p>20 amount of about 50 to \$60,000 sometime in 2014. I</p> <p>21 don't know if any of that is traceable to the money</p> <p>22 that he deposited with the Court for the bond, for</p> <p>23 the \$65,000 August 2015 bond.</p> <p>24 Q The way I understood your earlier testimony was that</p> <p>25 the roughly \$60,000 that Ms. Brown gave to</p>	<p style="text-align: right;">44</p> <p>1 or to Monyet, LLC; is that right?</p> <p>2 A I think that's a fair statement because I don't know</p> <p>3 how he used the funds that he received and whether</p> <p>4 any of those funds are traceable to the amount</p> <p>5 that's on deposit with the Court right now.</p> <p>6 Q Okay. But to your knowledge, after -- This is a</p> <p>7 question about your knowledge: After the \$60,000</p> <p>8 was given by Ms. Brown to Mr. Steele in cash, to</p> <p>9 your knowledge neither you nor Ms. Brown gave</p> <p>10 Mr. Steele any other money; is that right?</p> <p>11 A No. I believe what my testimony was before was that</p> <p>12 there may have been modest expenditures that came up</p> <p>13 in connection with, for example, appellate costs or</p> <p>14 something along those lines. So I may have paid</p> <p>15 half of something to him at a certain point in time,</p> <p>16 but nothing -- Not a major transfer like a \$60,000</p> <p>17 transfer.</p> <p>18 Q So any of those transfers would be directly</p> <p>19 attributable to reimbursing him for the costs of</p> <p>20 pursuing the appeal; is that right?</p> <p>21 A Or something similar to that, yes.</p> <p>22 Q Well, what else would be similar to that?</p> <p>23 A Well, I believe we paid some money to -- I guess I</p> <p>24 can't think of anything in specific. I know</p> <p>25 appellate costs are one thing that comes up, but I</p>

<p style="text-align: right;">45</p> <p>1 can't think of any other specifically.</p> <p>2 Q Okay. With respect to the Groupon case that you</p> <p>3 testified about at the beginning of the meeting</p> <p>4 today, my understanding is that the request for</p> <p>5 attorney's fees is a request for approximately</p> <p>6 \$200,000?</p> <p>7 A That's correct.</p> <p>8 Q Who does Ms. Brown owe the \$200,000 to?</p> <p>9 A It's my understanding that first she'll get the</p> <p>10 money and the money is taxable, so she owes some to</p> <p>11 the federal government to pay off taxes on it. And</p> <p>12 then a significant portion, if not the remaining</p> <p>13 portion, would go to an attorney Nathan Worzel, who</p> <p>14 prosecuted the appeal on her behalf before the Ninth</p> <p>15 Circuit.</p> <p>16 Q Okay. Who is Nathan Worzel?</p> <p>17 A He's an attorney.</p> <p>18 Q Do you know him personally?</p> <p>19 A I do.</p> <p>20 Q And has he ever been an attorney in any firm that</p> <p>21 you've operated?</p> <p>22 A He's been employed by me in the past.</p> <p>23 Q Now, you said that she would owe the federal</p> <p>24 government money, but aren't you asking for, on her</p> <p>25 behalf, aren't you asking for \$200,000 in attorney's</p>	<p style="text-align: right;">47</p> <p>1 A It's based off the common fund. Oftentimes the</p> <p>2 Court will perform a cross-check to see if this is</p> <p>3 reasonable, given the amount of time expended to do</p> <p>4 a particular action. In here the cross-check is the</p> <p>5 reference to the plaintiff's attorneys' billings,</p> <p>6 which, for their appeal, I believe it exceeded over</p> <p>7 a million dollars to do not just the appeal, but all</p> <p>8 of the post-original settlement filing work.</p> <p>9 Q So would it be accurate to say, then, that you don't</p> <p>10 really know how much she owes in attorney's fees?</p> <p>11 A Do I personally know? No.</p> <p>12 Q Okay. And you haven't seen any records that would</p> <p>13 tell you that?</p> <p>14 A That's correct.</p> <p>15 Q Okay.</p> <p>16 MR. KREUZIGER: I have nothing further,</p> <p>17 Mr. Seaver.</p> <p>18 MR. SEAVER: And I don't think that I do.</p> <p>19 But, once again, on these accounts receivable, what</p> <p>20 I have been asking for and I thought I was clear on,</p> <p>21 I want to be able to track those accounts</p> <p>22 receivable. I want to see when they were paid, when</p> <p>23 they came in, I want to see the existence of them at</p> <p>24 the time of filing. And all I've gotten are those</p> <p>25 first thing, the four line items, and then these</p>
<p style="text-align: right;">46</p> <p>1 fees?</p> <p>2 A Yes.</p> <p>3 Q So is it your testimony that she owes Mr. Worzel</p> <p>4 \$200,000 in attorney's fees?</p> <p>5 A I don't believe -- Whether she owes him that amount</p> <p>6 or not, I'm not sure of the exact number, but I do</p> <p>7 know that the theory behind the 10 percent -- I'm</p> <p>8 sorry -- Behind the request for \$200,000 is on a</p> <p>9 common fund basis, which means that it's not</p> <p>10 necessarily directly tied to the amount of fees</p> <p>11 she's incurred, although it has to bear some logical</p> <p>12 relationship. It's more about the benefit she</p> <p>13 provided to the class and taking a percentage of it</p> <p>14 than anything else.</p> <p>15 Q So she doesn't actually owe somebody \$200,000 in</p> <p>16 attorney's fees?</p> <p>17 A I guess you'd have to ask Ms. Brown. Just</p> <p>18 speculating at this point.</p> <p>19 Q Well, have you reviewed any invoices or billings</p> <p>20 that she's received from any attorneys in order to</p> <p>21 draft whatever you filed with the Court on her</p> <p>22 behalf?</p> <p>23 A No, I did not review billings or invoices.</p> <p>24 Q So the number is purely based off of this percentage</p> <p>25 recovery that you've described?</p>	<p style="text-align: right;">48</p> <p>1 documents that we looked at today. So that's what I</p> <p>2 want.</p> <p>3 MS. MAY: You were also talking about the</p> <p>4 bank account statements, personal and business. Can</p> <p>5 you give me better times and dates you want those</p> <p>6 for and then I can check the drop box and make sure</p> <p>7 you've got them?</p> <p>8 MR. SEAVER: Today I was talking about</p> <p>9 that, Ms. May?</p> <p>10 MS. MAY: Well, it was --</p> <p>11 MR. SEAVER: It was when Mr. Kreuziger</p> <p>12 and Mr. Hansmeier were talking?</p> <p>13 MR. KREUZIGER: Yeah. I mean, if there's</p> <p>14 anything you think I need, just let me know.</p> <p>15 MS. MAY: Yeah, let me know. Because the</p> <p>16 question was did the AR go into his account and can</p> <p>17 we track it from the business account to the</p> <p>18 personal account. You asked if he had gotten the</p> <p>19 bank statements and he said he put it in your drop</p> <p>20 box.</p> <p>21 MR. SEAVER: Okay.</p> <p>22 MR. KREUZIGER: I can get you a specific</p> <p>23 request.</p> <p>24 MS. MAY: If you would, thanks, Colin,</p> <p>25 because I can come up with those.</p>

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Bky No. 15-42460
Chapter 7 Case

Paul Hansmeier,

Debtor.

Memorandum in Support of Trustee's Motion for Turnover

INTRODUCTION

The trustee's motion seeks entry of an order requiring the debtor's counsel, Barbara May, to turn over to the trustee, the \$10,169.81 of Chapter 13 plan payments (the "Funds") currently in her possession, pursuant to this Court's December 29, 2015 Order. The relevant facts for this matter are set forth in the trustee's Motion for Turnover.

BACKGROUND

The facts relevant to this motion are simple. According to the debtor's Schedule B, at the time he filed the Chapter 13 petition, he had \$72,000 in accounts receivable. According to the debtor, by the time this court converted the case to one under Chapter 7, he had collected all of the accounts receivable. The debtor admitted, at the second session of his §341 meeting that, had the case been a Chapter 7 case, the trustee would simply have collected those accounts receivable and the monies would have been available for creditors. A copy of the February 25, 2015 §341 transcript is attached to the Turnover Motion as Exhibit 5.

After this Court denied his motion for a stay pending appeal, the debtor sought such a stay from the Eighth Circuit BAP. In support of that motion, the debtor clearly, and unequivocally, represented to the Eighth Circuit BAP as follows:

“The accounts receivables were used to run my law practice and to fund my Chapter 13 plan.” (Emphasis Added).

See Exhibit 4 to Motion for Turnover.

ARGUMENT

The only issue in front of the court on this matter is whether or not the funds held by Ms. May are property of the debtor’s Chapter 7 bankruptcy estate. If the funds are property of the debtor’s bankruptcy, the trustee is entitled to the immediate turnover of those funds pursuant to 11 U.S.C. § 542(a).

The debtor has asserted that the Funds are post-petition wages and, therefore, are excluded from the debtor’s chapter 7 bankruptcy estate, citing to the Supreme Court’s decision in *Harris v. Viegelaahn*, 135 S.Ct. 1829 (2015). The Supreme Court in *Harris* found that post-petition wages are property of the bankruptcy estate pursuant to 11 U.S.C. § 1306(a), however, those funds do not come into the Chapter 7 estate upon a voluntary conversion, absent bad faith. The trustee objects to the debtor’s contention that when, essentially, he moved the accounts receivable from one of his pockets to another one of his pockets they ceased to be estate property.

A. The Debtor’s Estate

The commencement of the debtor’s case under Bankruptcy Code § 301 created an estate comprised of virtually all legal or equitable interests of the debtor in property wherever located. 11 U.S.C. § 541(a). According to the debtor’s bankruptcy schedules, at the commencement of his case he had accounts receivable valued at \$72,000. See Exhibit 2 to Trustee’s Motion. The accounts receivable were owed to him for services he had performed prior to the filing of his Chapter 13 petition.

Pursuant to 11 U.S.C. § 541(a)(6) the bankruptcy estate is also comprised of any “proceeds, product, offspring, rents, or profits of or from property of the estate, ...” Therefore, any monies received on behalf of the pre-petition account receivables would unquestionably constitute proceeds of an estate asset, the accounts receivable. Id. See *In re HMH Motor Servs.*,

Inc., 259 B.R. 440, 452 (Bankr. S.D. Ga. 2000). The debtor has admitted that the Funds are proceeds from the scheduled accounts receivables, as such they are property of the debtor's bankruptcy estate.

Upon conversion of the debtor's case to one under Chapter 7, the property of the estate for the converted case includes all property of the estate as of the Chapter 13 petition date, which still remains as of the conversion. 11 U.S.C. § 348(f); See *In re Harris*, 135 S.Ct. at 1837. Accordingly, any remaining accounts receivable, or proceeds from accounts receivable, are property of the Chapter 7 bankruptcy estate upon conversion of the debtor's case. *Id.*

B. The Funds are not Post-Petition Wages Excluded from the Estate

In order for the Funds to be excluded from the Chapter 7 bankruptcy estate, they would have to be post-petition wages, which although includable in the estate in a Chapter 13, pursuant to § 1306(a), would be excluded from the bankruptcy estate in a Chapter 7 or converted case under § 541(a)(6). Pursuant to earnings exception of 11 U.S.C. § 541(a)(6), post-petition earnings are excluded from the bankruptcy estate when they are "earnings from services performed by an individual debtor after the commencement of the case." See *In re Powell*, 187 B.R. 642, 644 (Bankr. D. Minn. 1995)(This exclusion from the bankruptcy estate is embodied in § 541(a)(6) and is commonly referred to in bankruptcy parlance as the "earnings exception."). The debtor's assertion that the Funds are post-petition wages does not satisfy the exception provided by §541(a)(6). Any funds paid to the debtor on the account of the pre-petition accounts receivable are derived from pre-petition services, not post-petition services as argued by the debtor.

C. Representation by the debtor to the Eighth Circuit BAP

The debtor attempted to convince the Eighth Circuit BAP to issue an order staying this Court's order converting the case to a Chapter 7. By the time this Court had ruled on the stay motion, the trustee had discovered that the debtor had liquidated \$72,000 in accounts receivable

during the Chapter 13. In an effort to convince the Eighth Circuit BAP to issue the order that this Court refused to issue, the debtor tried to convince the Eighth Circuit BAP that his use of the accounts receivable was appropriate. In so doing, he clearly and unequivocally represented to the Eighth Circuit BAP that “the accounts receivables were used to run my law practice and to fund my Chapter 13 plan.” (Emphasis Added). Of course, he made no mention to the Eighth Circuit BAP of his intention to keep the receivable monies he used to fund his Chapter 13 plan, because that would undermine his plea to the Eighth Circuit BAP. Now, however, because he would like to get his hands on the account receivable monies which he admitted that he used to fund the Chapter 13 plan, he is attempting to impeach his own representation to the Eighth Circuit BAP.

CONCLUSION

The accounts receivable scheduled by the debtor were estate property as of the filing date. The debtor’s collection and liquidation of those assets did not remove that interest from the bankruptcy estate, and the transfer of those funds to the debtor did not somehow transform that interest into post-petition wages. As set forth above, the \$10,169.81 held by Barbara May is property of this bankruptcy estate and the Trustee is entitled to an order compelling the turnover of those funds.

FULLER, SEAYER, SWANSON & KELSCH, P.A.

Dated: March 4, 2016

By: /e/ Matthew D. Swanson

Matthew D. Swanson 390271
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
Telephone: 952-890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 15-42460

In re:

Paul Hansmeier,

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2016, I caused the following documents:

1. Notice of Hearing and Motion for Turnover of Property;
2. Memorandum in Support of Trustee's Motion; and
3. Order Regarding Turnover of Property (proposed).

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first-class mail, postage pre-paid to the following:

Paul Hansmeier 3749 Sunbury Cove Woodbury, MN 55125	Barbara J May Attorney at Law 2780 Snelling Ave N, Suite 102 Roseville, MN 55113
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FULLER, SEAVER, SWANSON & KELSCH, P.A.

Dated: March 4, 2016

By: /e/ Matthew D. Swanson
Matthew D. Swanson
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 15-42460

In re:

Paul Hansmeier,

Debtor.

ORDER

This case is before the court on the trustee's motion for the turnover of property of the bankruptcy estate. Appearances, if any, were noted upon the record.

Upon the motion and the files,

IT IS ORDERED:

Barbara May shall turn over to the trustee, immediately upon entry of this Order, the sum of \$10,169.81, currently in her possession pursuant to this court's order of December 29, 2015.

Dated:

Kathleen H. Sanberg
United States Bankruptcy Judge